



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3580

AUG 30 2018

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Kristin Heutmaker  
Manager, Environmental & Safety  
Saint Paul Park Refinery Company, LLC  
301 Saint Paul Park Road  
Saint Paul Park, Minnesota 55071

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Saint Paul Park Refinery Company, LLC, docket no. CAA-05-2018-0022. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on

August 30, 2018.

Pursuant to paragraph 55 of the CAFO, Saint Paul Park Refinery Company, LLC must pay the civil penalty within 30 days of the filing date. Your check or electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to William Wagner, Associate Region Counsel, at (312) 886-4684.

Sincerely,

*Sarah Marshall* for

Sarah Marshall, Chief  
Air Enforcement and Compliance Assurance Branch (MI/WT)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/ C-14J  
Regional Hearing Clerk/ E-19J  
William Wagner/ C-14J  
Sarah Kilgriff/ Minnesota Pollution Control Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Docket No.	CAA-05-2015-0022
	)		
Saint Paul Park Refining Co. LLC	)	Proceeding to Assess a Civil Penalty	
Saint Paul Park, Minnesota	)	Under Section 113(d) of the Clean Air Act,	
	)	42 U.S.C. § 7413(d)	
Respondent.	)		
_____	)		

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is the Saint Paul Park Refining Co. LLC (SPPRC), a Delaware limited liability company doing business in Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

9. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015 and/or \$45,268 per day of violation up to a total of \$362,141 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

10. The Administrator may assess a penalty greater than \$362,141 where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19.

11. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter, involving a penalty greater than \$362,141, is appropriate for an administrative penalty action.

12. Section 113(d)(1) of the CAA limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of

the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

13. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

### **New Source Performance Standards (NSPS)**

#### **General Provisions, 40 C.F.R. Part 60, Subpart A**

14. The General Provisions for the Part 60 NSPS Standards are set forth at 40 C.F.R. Part 60, Subpart A, §§ 60.1 - 60.19.

15. Section 60.11(d) of Subpart A provides, in pertinent part, that “[a]t all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions.”

#### **NSPS for Petroleum Refineries, 40 C.F.R. Part 60, Subpart J**

16. On March 15, 1978, pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the NSPS for Petroleum Refineries at 40 C.F.R. Part 60, Subpart J, §§ 60.100 – 60.109. 43 Fed. Reg. 10868. The provisions have been subsequently amended.

17. Section 60.101(g) of Subpart J provides, in part, that “[f]uel gas combustion device means any equipment, such as process heaters, boilers and flares used to combust fuel gas . . . .”

18. Section 60.104(a)(1) of Subpart J provides that no owner or operator shall “[b]urn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide (H<sub>2</sub>S) in excess of .230 mg/dscm (0.10 gr/dscf) [162 ppm]. The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from this paragraph.” “Malfunction” is defined at 40 C.F.R. § 60.2. The exemption for fuel gas released to the flares is limited to extraordinary situations such as emergency gas releases from relief valve leakage or other emergency malfunctions.

19. Section 60.103(a) of Subpart J provides that no owner or operator of any fluid catalytic cracking unit regenerator (FCCUR) subject to the requirement of this subpart shall “discharge or cause the discharge into the atmosphere . . . any gases that contain carbon monoxide (CO) in excess of 500 ppm by volume (dry basis).”

**NSPS for Petroleum Refineries for Which Construction, Reconstruction, or  
Modification Commenced After May 14, 2007, 40 C.F.R. Part 60, Subpart Ja**

20. On June 24, 2008, pursuant to Section 111 of the CAA, 42 U.S.C. § 7411, EPA promulgated the NSPS for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007 at 40 C.F.R. Part 60, Subpart Ja, §§ 60.100a – 60.109a. 73 Fed. Reg. 35867. These provisions were subsequently amended on September 12, 2012. 77 Fed. Reg. 56464.

21. Section 60.100a(b) of Subpart Ja provides, in part, that the “provisions of this subpart apply only to flares which commence construction, modification or reconstruction after June 24, 2008.”

22. Section 60.100a(c) of Subpart Ja provides, in part, that modification to a flare occurs when “[a]ny new piping from a refinery process unit, including ancillary equipment, or a fuel gas system is physically connected to the flare . . . .”

23. Section 60.103a(f) provides, in part, that “modified flares that have accepted applicability of subpart J under a federal consent decree shall comply with the subpart J requirements as specified in the consent decree, but shall comply with the requirements of paragraph (h) of this section and the requirements of § 60.107a(a)(2) by no later than November 11, 2015.”

24. Section 60.103a(h) provides that “[e]ach owner or operator shall not burn in any affected flare any fuel gas that contains H<sub>2</sub>S in excess of 162 ppmv determined hourly on a 3-hour rolling average basis. The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from this paragraph.” “Malfunction” is defined at 40 C.F.R. § 60.2. The exemption for fuel gas released to the flares is limited to extraordinary situations such as emergency gas releases from relief valve leakage or other emergency malfunctions.

**National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories (NESHAP for Source Categories or MACT)**

**NESHAP General Provisions, 40 C.F.R. Part 63, Subpart A**

25. The General Provisions for the Part 63 NESHAP standards are set forth at 40 C.F.R. Part 63, Subpart A, §§ 63.1 - 63.15. Section 63.1(a)(4)(i) provides, however, that each

MACT standard in 40 C.F.R. Part 63 “must identify explicitly whether each provision in this subpart A is or is not included in such relevant standard.”

26. Section 63.11(b)(4) of Subpart A requires that “[f]lares shall be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.”

#### **NESHAP From Petroleum Refineries, 40 C.F.R. Part 63, Subpart CC**

27. On August 18, 1995, pursuant to Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the NESHAP from Petroleum Refineries at 40 C.F.R. Part 63, Subpart CC, §§ 63.640 – 63.671, and Appendix to Subpart CC – Tables. 60 Fed. Reg. 43260. The provisions have been subsequently amended.

28. Table 6 of Subpart CC requires compliance with Section 63.11 of the NESHAP for Source Categories General Provisions.

#### **Minnesota State Implementation Plan**

29. The Minnesota state implementation plan (SIP) at Minnesota Administrative Rules (Minn. Rules) § 7011.1410, subpart 2, prohibits the owner or operator from burning fuel gas which contains H<sub>2</sub>S in excess of 0.10 gr/dscf (230 mg/dscm or 162 ppmv) in a flare. This provision was amended in December 2016 to only apply to flares that are not otherwise subject to NSPS Subpart Ja. However, the amended provision has not yet been approved into the Minnesota SIP.

30. The Minnesota SIP at Minn. Rules § 7011.1410, subpart 1(B), prohibits the owner or operator of a FCCUR at a petroleum refinery from discharging into the atmosphere any gases which contain CO in excess of 0.050 percent by volume (500 ppmv).

#### **Title V Permit**

31. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed. Reg. 32295; 40 C.F.R. Part 70.

32. On April 10, 2013, the Minnesota Pollution Control Agency (MPCA) issued Title V Air Emissions Permit No. 16300003-020 to the petroleum refinery located at 301 Saint Paul Park Road, Saint Paul Park, Minnesota (Title V Permit). MPCA subsequently modified the Title V Permit on November 25, 2015 and March 22, 2017. Conditions listed in CAFO Paragraphs 33, 34 and 35 are present in the Title V Permit and subsequent modifications.

33. The Title V Permit, at EU 004/EQUI 2 FCC Regenerator, prohibits the owner or operator of any FCCUR from emitting any gases containing a CO concentration equal to or greater than 500 parts per million using a 1-Hour Average by volume on a dry basis (ppmv).

34. The Title V Permit, at CE 005/TREA 13 Flaring, prohibits combusting fuel gas which contains H<sub>2</sub>S in excess of 230 mg/dscm (0.10 gr/dscf or 162 ppmv) in a flare.

35. The Title V Permit, at CE 005/TREA 13 Flaring, indicates that a flare shall be designed for and operated with no visible emissions, except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.



### Findings

36. SPPRC owns and operates a petroleum refinery located at 301 Saint Paul Park Road, Saint Paul Park, Minnesota (the Refinery).

37. SPPRC owns and operates one main flare at the Refinery which is identified as emission source CE 005/TREA 13 in the Refinery's Title V Permit (the Flare).

38. Pursuant to the Consent Decree entered by the U.S. District Court for the Eastern District of Michigan on August 30, 2001, and captioned *United States of America et. al v. Marathon Ashland Petroleum LLC* (2001 Consent Decree), the Flare is subject to NSPS Subpart J.

39. By correspondence and reports received from July 30, 2012 to July 15, 2017, SPPRC provided information to EPA pertaining to the operation of its flaring system, which includes the Flare, and the operation of its FCCUR.

40. Subsequent to June 24, 2008, SPPRC modified the Flare as that term is defined at 40 C.F.R. § 60.100a(c).

41. As provided in the 2001 Consent Decree and the Title V Permit, the following regulatory provisions apply to the Flare:

- a. NSPS Subpart A at 40 C.F.R. § 60.11(d).
- b. NSPS Subpart J (from at least August 30, 2001 to November 10, 2015).
- c. NSPS Subpart Ja (from November 11, 2015 to date).
- d. NESHAP for Source Categories Subparts A.  
(specifically, 40 C.F.R. § 63.11(b)(4)) and CC.
- e. Minn. Rules § 7011.1410, subpart 2.
- f. The Title V Permit.

42. SPPRC provided data that indicates that the Refinery combusted a fuel gas stream at the Flare with H<sub>2</sub>S greater than 162 ppmv on a 3-hour rolling average for 10,604 hours during the period of April 1, 2015 through June 30, 2016. Subsequent information provided by SPPRC

indicated that the Refinery combusted a fuel gas stream at the Flare with H<sub>2</sub>S greater than 162 ppmv on a 3-hour rolling average intermittently, from on or about June 30, 2016, until December 31, 2017.

43. Quarterly Excess Emissions and continuous emissions monitoring (CEM) Reports for third quarter 2016, fourth quarter 2016, and second quarter 2017 indicate that visible emissions from the Flare occurred for more than 5 consecutive minutes on September 8 and November 16, 2016 and May 27, 2017.

44. SPPRC owns and operates a FCCUR at the Refinery which is identified as a process unit in the Refinery's Title V Permit, and is subject to the following regulatory provisions:

- a. NSPS Subpart J at 40 C.F.R. § 60.103(a).
- b. Minn. Rules § 7011.1410, subpart 1(B).
- c. The Title V Permit.

45. The semi-annual SPPRC consent decree reports dated July 30, 2012 and July 29, 2015 indicate that the FCCUR had emissions with concentrations of CO that exceeded 500 ppm. These exceedances occurred on January 19, March 5, and March 22, 2012, and February 17, 2015. Other intermittent exceedances were reported from January 1, 2012 until December 31, 2017.

#### Alleged Violations

46. From April 1, 2015 until November 10, 2015, instances of H<sub>2</sub>S in fuel gas routed to the Flare in excess of 162 ppmv as stated in Paragraph 42, above, did not qualify as exempt under 40 C.F.R. § 60.104(a)(1) and therefore are violations of:

- a. NSPS Subpart A at 40 C.F.R. § 60.11(d).
- b. NSPS Subpart J at 40 C.F.R. § 60.104(a)(1).
- c. The Minnesota SIP at Minn. Rules § 7011.1410, Subpart 2.
- d. Title V Permit, CE 005/TREA 13 Flaring for Hydrogen Sulfide.

47. From November 11, 2015 until December 31, 2017, instances of H<sub>2</sub>S in fuel gas routed to the Flare in excess of 162 ppmv as stated in Paragraph 42, above, did not qualify as exempt under 40 C.F.R. § 60.103a(h) and therefore are violations of:

- a. NSPS Subpart A at 40 C.F.R. § 60.11(d).
- b. NSPS Subpart Ja at 40 C.F.R. § 60.103a(h).
- c. The Minnesota SIP at Minn. Rules § 7011.1410, Subpart 2.
- d. Title V Permit, CE 005/TREA 13 Flaring for Hydrogen Sulfide.

48. CO emissions in excess of 500 ppm from the FCCUR, as stated in Paragraph 45, above, are violations of:

- a. NSPS Subpart A at 40 C.F.R. § 60.11(d).
- b. NSPS Subpart J at 40 C.F.R. § 60.103(a).
- c. The Minnesota SIP at Minn. Rules § 7011.1410, Subpart 1(B).
- d. Title V Permit, EU 004 FCC Regenerator.

49. Visible emissions from the Flare occurred for more than 5 consecutive minutes as stated in Paragraph 43 are violations of:

- a. NESHAP for Source Categories Subpart A at 40 C.F.R. § 63.11(b)(4).
- b. The Minnesota SIP at Minn. Rules § 7011.7280(A)
- c. Title V Permit, CE 005/TREA 13 Flaring for visible emissions

50. On January 8, 2016, EPA issued SPPRC a Notice and Finding of Violation (NOV/FOV) for the violations alleged in Paragraphs 46 and 48 above.

51. On February 17, 2016, EPA met with SPPRC to discuss the alleged violations in the NOV/FOV.

52. Representatives of SPPRC and EPA held settlement meetings to discuss resolution of the alleged violations in Paragraphs 46, 47, 48 and 49 on March 9, May 11, June 6 and July 25, 2017.

53. SPPRC has implemented corrective actions to achieve compliance for the alleged violations in Paragraphs 46, 47, 48 and 49, including:

- a. Repairing compressors and compressor packings that led to flaring that resulted in the alleged violations in Paragraphs 46 and 47.
- b. Implementing a system to remove excess H<sub>2</sub>S from the Flare header to minimize emissions.
- c. Undertaking incident-specific actions to address the alleged violations in Paragraphs 48 and 49.

#### Civil Penalty

54. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and SPPRC's cooperation, efforts to promptly return to compliance, and agreement to perform supplemental environmental projects (SEPs), and pursuant to the Clean Air Act Stationary Civil Penalty Policy, Complainant has determined that an appropriate civil cash penalty to settle this action is \$725,000. This civil penalty is not deductible for federal tax purposes. SPPRC will also complete SEPs costing SPPRC at least \$762,200.

55. Within 30 days after the effective date of this CAFO, Respondent must pay the \$725,000 civil cash penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

For checks sent by express mail (non-U.S. Postal Service which won't deliver mail to P.O. Boxes) please use the following address instead:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Respondent's name and the docket number of this CAFO.

56. Respondent must send a notice of payment that states Respondent's name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

William Wagner (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

57. If Respondent does not timely pay the civil penalty or any stipulated penalties due under Paragraph 72, below, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

58. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established

by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

### Supplemental Environment Projects

59. SPPRC agrees to complete SEPs designed to further protect the environment and public health by reducing emissions of related air pollutants to the environment as detailed in Paragraphs 60 and 61 below.

60. **SO2 emissions reduction project at the refinery.** SPPRC will re-route sulfur pit emissions from the No. 3 sulfur recovery unit (SRU) from the tail gas incinerator to the front end of the SRU for additional sulfur removal. Emissions will be managed in this manner except during startup, shutdown, or malfunction events at the SRU, in which case emissions from the sulfur pit may be routed to the tail gas incinerator. SPPRC must spend at least \$491,000 on this project.

61. **Diesel emission-reduction projects.** SPPRC will undertake the following projects in the Minneapolis-St. Paul, Minnesota metropolitan area for at least \$271,200.

- a. TC&W Auxiliary Power Unit Replacement. This project will replace outmoded locomotive engines.
- b. Gran Marie Towboat Re-power. This project will replace diesel-fired motive power on the Gran Marie, including outmoded engines and associated transmissions.
- c. Spectro Alloys and Alter River Logistics Loader Replacement. These projects will replace outmoded loader engines.

SPPRC shall undertake this SEP by arranging for a qualified contractor to carry out the referenced projects.

62. Respondent certifies as follows:

I certify that SPPRC is not required to perform or develop these SEPs by any law, regulation, order, or agreement (other than this agreement) or as injunctive relief as of the date that I am signing this CAFO. I further certify that SPPRC has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action.

I certify that SPPRC is not a party to any open federal financial assistance transaction that is funding or could be used to fund the same activity as the SEPs. I further certify that, to the best of my knowledge and belief after reasonable inquiry, there is no such open federal financial transaction that is funding or could be used to fund the same activity as the SEPs, nor has the same activity been described in an unsuccessful federal financial assistance transaction proposal submitted to EPA within two years of the date that I am signing this CAFO (unless the project was barred from funding as statutorily ineligible). For purposes of this certification, the term "open federal financial assistance transaction" refers to a grant, cooperative agreement, loan, federally-guaranteed loan guarantee or other mechanism for providing federal financial assistance whose performance period has not expired.

63. EPA may inspect the Refinery or request information at any time to monitor

Respondent's compliance with this CAFO's SEP requirements.

64. Respondent must maintain copies of the underlying research and data for all SEP reports submitted to EPA pursuant to this CAFO. Respondent must provide the documentation of any underlying research and data to EPA within seven days of EPA's request for the information. Respondent must maintain such records until EPA provides written confirmation of SEP completion as described below.

65. Respondent must implement the SEP identified in Paragraph 60 by no later than May 31, 2019.

66. Respondent must complete the SEPs identified in Paragraph 61 by no later than August 31, 2019.

67. No less than 60 days after the completion of all SEPs, Respondent must submit a SEP completion report to EPA. This report must contain, at a minimum, the following information:

- a. Detailed description of each SEP as completed.
- b. Description of any problems executing the SEPs and the actions taken to correct the problems.
- c. Documentation that the funds were spent in conformity with the SEPs as described.
- d. Documentation that the replaced engines were destroyed, dismantled or otherwise permanently decommissioned such that they will no longer be operated.
- e. Certification that Respondent has completed the SEPs in compliance with this CAFO.
- f. Description of the environmental and public health benefits resulting from the SEPs (quantify the benefits and pollution reductions, if feasible).

68. Respondent must submit all notices and reports required by this CAFO by first-class mail to the Compliance Tracker of the Air Enforcement and Compliance Assurance Branch and William Wagner at the addresses provided in Paragraph 56.

69. In each report that Respondent submits as required by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

70. Following receipt of the SEP completion report described above, EPA must notify Respondent in writing that:

- a. Respondent has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and EPA will give Respondent 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and EPA will seek stipulated penalties under Paragraph 72.



71. If EPA exercises option b above, Respondent may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from EPA's receipt of Respondent's objection to reach an agreement. If the parties cannot reach an agreement, EPA will give Respondent a written decision on its objection. Respondent will comply with any requirement that EPA imposes in its decision. If Respondent does not complete the SEPs as required by EPA's decision, Respondent will pay stipulated penalties to the United States under Paragraph 72.

72. If Respondent violates any requirement of this CAFO relating to the SEPs, Respondent must pay stipulated penalties to the United States as follows:

- a. Except as provided in subparagraph b, below, if Respondent did not complete a SEP satisfactorily according to the requirements of Paragraphs 60 and 61, Respondent must pay a penalty equal to the cost provided in those Paragraphs, plus 25%.
- b. If Respondent completed the SEP satisfactorily, but spent less than the cost set forth in Paragraphs 60 and/or 61, Respondent must pay a penalty equal to the unspent amount of the project as listed in Paragraphs 60 and/or 61.
- c. If Respondent did not timely submit the SEP completion report, Respondent must pay penalties in the following amounts for each day after the report was due until it submits the report:

<u>Penalty per violation per day</u>	<u>Period of violation</u>
\$500	1 <sup>st</sup> through 14 <sup>th</sup> day
\$1,000	15 <sup>th</sup> through 30 <sup>th</sup> day
\$1,500	31 <sup>st</sup> day and beyond

73. EPA's determinations that Respondent completed the SEP satisfactorily will bind Respondent.

74. Respondent must pay any stipulated penalties within 15 days of receiving EPA's written demand for the penalties. Respondent will use the method of payment specified in Paragraph 55, above, and will pay interest and nonpayment penalties on any overdue amounts consistent with Paragraphs 57 and 58.

75. Any public statement that Respondent makes referring to the SEPs must include the following language: “SPPRC undertook this project under the settlement of the United States Environmental Protection Agency’s enforcement action against SPPRC for violations of the Clean Air Act.”

76. For federal income tax purposes, Respondent will neither capitalize into inventory or basis, nor deduct any costs or expenditures incurred in performing any of the SEPs.

#### General Provisions

77. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: wagner.william@epa.gov (Counsel for Complainant), and jbbloomberg@envirolawgroup.com (Counsel for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

78. This CAFO resolves only Respondent’s liability for federal civil penalties for the violations alleged in this CAFO.

79. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

80. This CAFO does not affect Respondent’s responsibility to comply with the CAA and other applicable federal, state, and local laws. Except as provided in Paragraph 78 of this CAFO, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

81. Respondent certifies that, with the exception of any issues noted in its periodic reports or annual Title V permit compliance certifications, it is complying fully with the CAA and Minnesota SIP.

82. This CAFO constitutes an “enforcement response” as that term is used in EPA’s Clean Air Act Stationary Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

83. The terms of this CAFO bind Respondent, its successors, and its assigns.

84. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

85. Each party agrees to bear its own costs and attorney’s fees in this action.

86. This CAFO constitutes the entire agreement between the parties.

**Consent Agreement and Final Order**

**In the Matter of:** Saint Paul Park Refining Co. LLC, Saint Paul Park, Minnesota

**Saint Paul Park Refining Co. LLC, Respondent**

8-21-2018

Date

Tommy Chavez

Tommy Chavez

Vice President and Refinery Manager

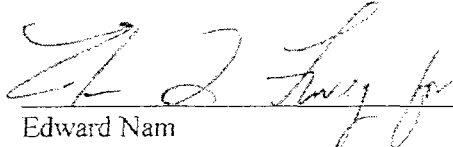
Saint Paul Park Refining Co. LLC

**Consent Agreement and Final Order**

**In the Matter of:** Saint Paul Park Refining Co. LLC, Saint Paul Park, Minnesota

**United States Environmental Protection Agency, Complainant**

1/31/18  
Date

  
Edward Nam  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

**Consent Agreement and Final Order**


**In the Matter of:** Saint Paul Park Refining Co. LLC, Saint Paul Park, Minnesota

**Docket No.** CAA-05-2018-0022

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

August 29, 2018  
Date

  
\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
United States Environmental Protection Agency  
Region 5

Consent Agreement and Final Order

In the matter of: Saint Paul Park Refinery Company, LLC of Saint Paul Park, Minnesota

Docket Number: CAA-05-2018-0022

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number [ CAA-05-2018-0022 ], which was filed on [ *August 30, 2018* ], in the following manner to the following addressees:

Copy by Certified Mail to  
Respondent:

Kristin Heutmaker  
Manager, Environmental & Safety  
Saint Paul Park Refinery Company, LLC  
301 Saint Paul Park Road  
Saint Paul Park, Minnesota 55071

Copy by E-mail to  
Attorney for Complainant:

William Wagner  
[wagner.william@epa.gov](mailto:wagner.william@epa.gov)

Copy by E-mail to  
Attorney for Respondent:

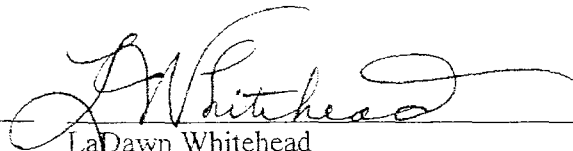
Marise Textor  
[marise.l.textor@undevon.com](mailto:marise.l.textor@undevon.com)

Jon Bloomberg  
[jbloomberg@envirolawgroup.com](mailto:jbloomberg@envirolawgroup.com)

Copy by E-mail to  
Regional Judicial Officer:

Ann Coyle  
[coyle.ann@epa.gov](mailto:coyle.ann@epa.gov)

Dated: *August 30, 2018*



LaDawn Whitehead  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 5

CERTIFIED MAIL RECEIPT NUMBER(S): 7011 1150 0000 2643 7259